

**IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF OKLAHOMA**

**FRANCES BILLS, Individually and as)
Mother and Next Friend of G.B.,)
a minor,)**

Plaintiffs,)

vs.)

Case No. CIV-17-1198-R

**JAMES HOWARD and)
P&S TRANSPORTATION, LLC)**

Defendants.)

NOTICE OF REMOVAL AND JURY DEMAND

Pursuant to 28 U.S.C. §§ 1441 and 1446, Separate Defendant P&S Transportation, LLC, hereby files this Notice of Removal of this case from the District Court of Payne County, Oklahoma, and Defendant's short and plain statement of the grounds for Removal is as follows:

1. On September 22, 2017, Plaintiffs Frances Bills, individually and as Mother and Next Friend of G.B., a minor filed their Petition in the District Court of Payne County, Oklahoma against Defendants James Howard and P&S Transportation, LLC. The Petition was served on P&S Transportation, LLC on or about October 23,

2017. As required by 28 U.S.C. § 1446(a), copies of all “process, pleadings and orders served upon each such defendant” are attached as Exhibit A.

2. To the best of the knowledge of Separate Defendant, P&S Transportation, LLC, Separate Defendant James Howard has not yet been served.

3. P&S Transportation, LLC is an Alabama limited liability company with its principal place of business in Birmingham, Alabama, and its registered agent for service of process is Robert L. Pike, Jr., 1810 Avenue C, Birmingham, Alabama 35218.

4. Separate Defendant, James Howard is not a resident or citizen of the State of Oklahoma.

5. Plaintiffs, Frances Bills, individually and as Mother and Next Friend of G.B., a minor, are citizens and residents of Payne County, Oklahoma, as evidenced by Paragraph 1 of Plaintiffs’ Petition, attached hereto as Exhibit A.

6. Any civil action filed in state court over which the federal district courts would have original jurisdiction may be removed to federal court. 28 U.S.C. § 1441(a).

7. As stated in Plaintiffs’ Petition attached hereto as Exhibit A, this action arises out of alleged accident in which Plaintiffs allege negligence and claim damages in excess of the jurisdictional limit. See Exhibit A, Plaintiff’s Petition.

8. The Court may properly exercise jurisdiction pursuant to 28 U.S.C. §1332 as the Plaintiff and Defendants are residents and citizens of different states (Oklahoma and Alabama, respectively) and the amount in controversy exceeds \$75,000.00.

A. The Matter Is Between Citizen Of Different States.

9. Complete diversity of citizenship exists between Plaintiffs and Separate Defendants.

10. Plaintiffs, Frances Bills, individually and as Mother and Next Friend of G.B., a minor are residents of Payne County, Oklahoma. See Exhibit A, Plaintiffs' Petition.

11. Separate Defendant P&S Transportation, LLC is a limited liability company formed under the laws of Alabama with its principal place of business in Alabama. 28 U.S.C. § 1332(c)(1).

12. Separate Defendant James Howard is not a resident or citizen of the State of Oklahoma and has not been served with Plaintiff's Petition but consents to the removal of this case to U.S. District Court. 28 U.S.C. §1446(b).

A. Notice Of Removal Was Filed Within The 30-Day Limit Required By 28 U.S.C. §1446(b) And All Procedural Requirements Have Been Met.

13. Plaintiff's Petition was filed on September 22, 2017, and P&S Transportation, LLC was served October 23, 2017.

14. This notice was timely filed within 30 days of Defendant's receipt of Plaintiff's Petition as required by 28 U.S.C. §1446(b) for timely removal.

15. Defendant has complied with all applicable requirements and procedures for removal set forth in 28 U.S.C. § 1446, and Defendant is hereby giving prompt notice of this Notice of Removal to the Plaintiffs, Frances Bills, individually and as Mother and Next Friend of G.B., a minor, and to the District Court of Payne County, Oklahoma, by filing a copy of this Notice of Removal with the District Court.

C. The Amount In Controversy Exceeds \$75,000.00, Exclusive Of Interest and Costs, As Required by 28 U.S.C. § 1332(a).

16. As stated the Conclusion of Plaintiff's Petition, Plaintiff seeks damages in excess of \$75,000 and therefore, the amount in controversy in this case exceeds \$75,000.00, satisfying the requirements of 28 U.S.C. § 1332(a).

17. Pursuant to the provisions of 28 U.S.C. § 1441(a), the United States District Court of the Western District of Oklahoma is the federal court for the district embracing the place where the state court suit is pending.

DEMAND FOR A JURY TRIAL

18. Defendant demands a trial by jury on all issues so triable.

P&S TRANSPORTATION, LLC,
Separate Defendant

RESOLUTION LEGAL GROUP
100 E. California, Suite 200
Oklahoma City, Oklahoma 73104
Telephone: (405) 235-6500
Fax: (405) 758-4775

By: /s/ Cristi Bullard
Cristi Bullard
Oklahoma Bar No. 21616
Cristi@resolutionlegal.com

AND

WALES & COMSTOCK
3608 N. Steele Blvd., Suite 101
P.O. Box 10018
Fayetteville, Arkansas 72703
Telephone: (479) 439-8088
Fax: (866) 365-7070

By: /s/ Christina Comstock
Christina Comstock
Oklahoma Bar No. 16494
Christy@walescomstock.com

*Attorneys for Defendants
P&S Transportation, LLC and
James Howard*

CERTIFICATE OF SERVICE

I hereby certify that on November 7, 2017, I electronically filed the foregoing with the Clerk of Court using the CM/ECF System which will send notification of such filing to all counsel of record.

Plaintiffs' Counsel

Michael P. Martin
Martin Jean & Jackson
P.O. Box 1089
Stillwater, OK 74076
mmartin@mjjlawfirm.com

/s/ Christina Comstock

Christina Comstock